

BEFORE THE DIVISION OF INSURANCE, STATE OF COLORADO

Final Agency Order No. O-11-146

FINAL AGENCY ORDER

**IN THE MATTER OF MINNESOTA SURETY AND TRUST COMPANY
NOTICE OF SHOW CAUSE HEARING**

THIS MATTER comes before John J. Postolowski, Interim Commissioner of Insurance for the State of Colorado ("Commissioner"), upon the Stipulation for Entry of Final Agency Order Re: Notice of Show Cause Hearing ("Stipulation") between the Colorado Division of Insurance ("Division") and Minnesota Surety and Trust Company ("Minnesota Surety"). After reviewing the Stipulation, the Commissioner makes the following Findings and enters the following Order:

FINDINGS

1. The Commissioner has jurisdiction over Minnesota Surety and this matter pursuant to Title 10, C.R.S.
2. By entering into the Stipulation, Minnesota Surety has waived its rights to a hearing under Title 10, C.R.S. and pursuant to §§ 24-4-104, 105, and 106, C.R.S.; the right to be represented at such hearing by counsel chosen and retained by Minnesota Surety; the right to present a defense, oral and documentary evidence, and cross-examine witnesses at such hearing; and the right to seek judicial review of this Final Agency Order.

Based upon the foregoing and the terms of the Stipulation between the Division and Minnesota Surety, it is hereby ORDERED as follows:

ORDER

3. In accordance with the Stipulation, the Commissioner terminates the MCE of Minnesota Surety for calendar years 2009 and 2010 due to Minnesota Surety's negligent failure to timely provide the MCE examiners with the necessary data and documents set forth in the Scope and Data Request and Supplemental Data Request, which impeded the examination from moving forward and impeded the examiners ability to select valid samples for examination. Minnesota Surety's negligent alteration of said files has rendered the files in a condition whereby they cannot be fully and completely examined for compliance with Colorado insurance law. Minnesota Surety has failed to comply with §§ 10-1-203, 204 and 205, 10-3-1106, 12-7-108(6) and 12-7-113, C.R.S.

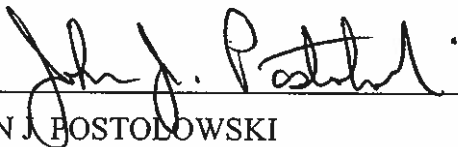
4. The sworn testimony and documents/exhibits in said sworn examinations of Minnesota Surety officers, agents and employees, as well as documents produced pursuant to subpoena, demonstrated Minnesota Surety officers, directors, employees or agents, negligently made alterations to the entries and memorandum upon the books and papers of the company or upon any statement filed or offered to be filed in the Division or used in the course of any examination, inquiry or investigation, in a manner that could result in deception of the Commissioner or any person appointed by the Commissioner, to make such examination, inquiry or investigation pursuant to § 10-1-204(5), C.R.S.
5. Pursuant to § 10-1-204(8), C.R.S., the Commissioner finds he had the authority to make public any examiner or company work papers or other documents, or any other information discovered or developed during the course of the MCE, in furtherance of legal and regulatory action the commissioner had deemed appropriate.
6. Minnesota Surety's certificate of authority in the State of Colorado is hereby revoked effective May 22, 2011.
7. Nothing herein shall release Minnesota Surety as the responsible entity from its obligation to service any existing policies of insurance and/or bonds issued in the State of Colorado. Said responsibility shall include, but is not limited to, timely returning consumer collateral, cooperating with Division investigations and paying forfeitures to the court.
8. Minnesota Surety shall be allowed 30 calendar days from the date of execution of this Stipulation to conclude its affairs and business in the State of Colorado. Minnesota Surety shall notify its officers, agents and employees that they shall cease selling, soliciting and negotiating insurance policies, bail bonds or any other insurance related product as of close of business on April 26, 2011.
9. Minnesota Surety shall pay a civil penalty to the Division for the cited violations of Colorado law, due and owing within 14 days of the date of execution of this Stipulation, in the amount of Two Hundred Thousand Dollars (\$200,000.00).
10. Minnesota Surety shall pay a civil penalty to the Division for the cited violations of Colorado law, in the amount of One Million Dollars (\$1,000,000.00). Said One Million Dollar penalty shall be stayed, and shall become due and payable if one or more of the following events occur:
 - a. Minnesota Surety fails to pay the Two Hundred Thousand Dollar penalty set forth above. In said event, the amount of One Million Two Hundred Thousand Dollars

(\$1,200,000.00) shall be immediately due and owing to the Division by Minnesota Surety;

- b. Minnesota Surety applies for a certificate of authority in the State of Colorado within five years of the date of execution of this Stipulation;
 - c. Minnesota Surety conducts or is involved in any insurance related business in the State of Colorado within five years of the date of execution of this Stipulation;
 - d. Minnesota Surety applies for any insurance related license in the State of Colorado within five years of the date of execution of this Stipulation;
 - e. Peter Plunkett, the current President of Minnesota Surety, individually applies for any insurance related license in the State of Colorado within five years of the date of execution of this Stipulation;
 - f. Peter Plunkett, the current President of Minnesota Surety, individually conducts or is involved in any insurance related business, directly or indirectly, in the State of Colorado within five years of the date of execution of this Stipulation;
11. All rights of any consumer, defendant or third party indemnitor are hereby reserved. Nothing contained in this Stipulation shall impede, prohibit or constrain any consumer, defendant or third party indemnitor from bringing any action, claim, litigation of other legal action against Minnesota Surety, its officers, agents or employees for any loss of collateral, loss of premium, fraud, damage, or other harm that may have resulted, or could result in the future, from any of the actions of Minnesota Surety as set forth herein.
12. As the result of the agreements reached herein, the Commissioner shall not exercise his authority to make a referral to criminal law enforcement authorities as is permitted under § 10-1-108(5) C.R.S. In the event Minnesota Surety does not make the aforementioned payment of Two Hundred Thousand Dollars (\$200,000.00) within 14 days of the date of execution of this Stipulation, this provision shall be null and void and the Commissioner may exercise his right to make a referral to criminal law enforcement authorities to the extent he deems so justified.
13. Minnesota Surety understands the Commissioner does not have control to exercise authority over law enforcement or other agencies. Nothing herein shall prohibit the Commissioner or the Division staff from testifying or providing examiner or company work papers or other documents, if compelled to do so, under subpoena, court order or other force of law regarding the matters set forth herein or any other matter related to Minnesota Surety's business conduct in the State of Colorado.
14. The hearing scheduled to commence on April 26, 2011 is hereby vacated.

15. In the event the Division commences an action against Minnesota Surety for an alleged violation of this Final Agency Order, this Final Agency Order and the Stipulation, incorporated herein, shall be admissible in any such action.
16. The Division and Minnesota Surety shall comply with and satisfy the requirements set out in the Stipulation.
17. The Stipulation is incorporated by reference and all its conditions, terms, and agreements are specifically made a part of this Order as though fully set forth herein.

DONE AND ORDERED this 22nd day of APRIL, 2011.



JOHN J. POSTOLOWSKI
INTERIM INSURANCE COMMISSIONER
COLORADO DIVISION OF INSURANCE

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION FOR ENTRY OF FINAL AGENCY ORDER and FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, this 25th day of April 2011 addressed as follows:

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Via Inter-Agency Mail:

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Paula Sisneros
Director of Compliance and Investigations